

CIPD Coronavirus webinar series

Furlough: the latest developments

2 June 2020

Welcome

Katie Jacobs, Senior Stakeholder Lead, CIPD

CIPD



Today's speakers

Katie Jacobs

Senior
Stakeholder
Lead, CIPD

Ben Willmott

Head of Public
Policy, CIPD

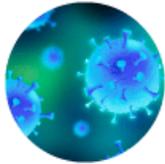
Andrew Willis

Head of Legal &
Advisory,
HR-Inform

Tom Blake

Managing
Director and
Executive
Coach, Blake
Connolly

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Covid-19
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Knowledge
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Free learning



Careers
support



Professional
credibility



Financial
support

cipd.co.uk/memberbenefits

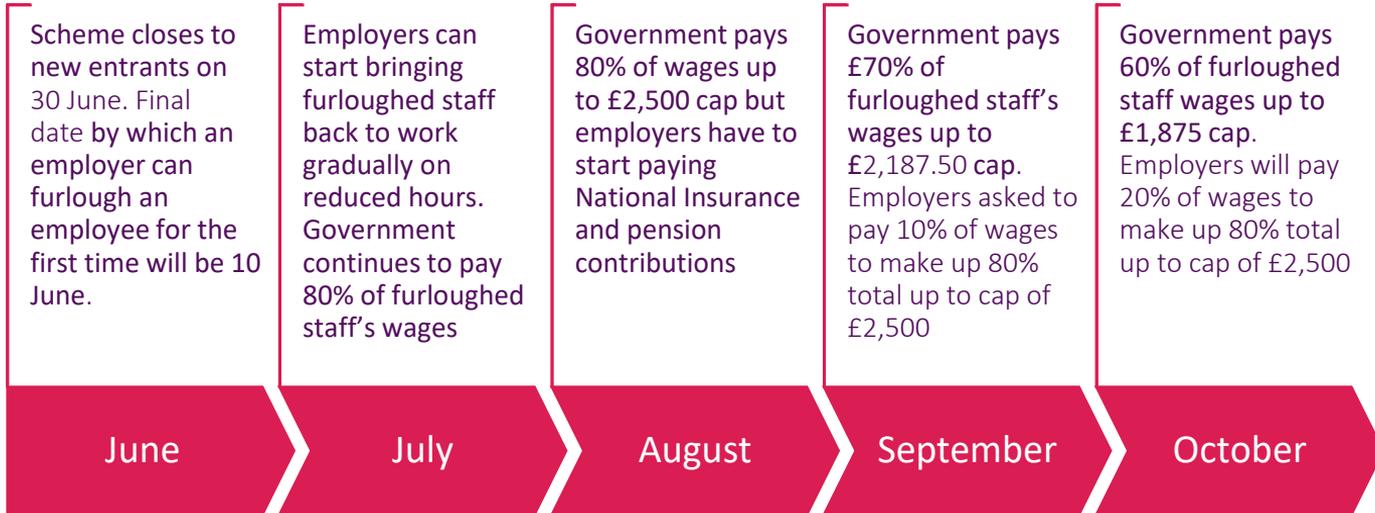
Context

Ben Willmott, Head of Public Policy, CIPD

CIPD



Changes to furlough scheme



Legal insight

Andrew Willis, Head of Legal & Advisory,
HR-Inform



New Treasury Direction

The first Treasury Direction applies to CJRS claims submitted before 22 May 2020 which are not compliant with the second Treasury direction

The second Treasury Direction was issued on 22 May 2020 and amends and effectively replaces the first Treasury direction:

- in relation to CJRS claims made on or after that date, or
- in relation to earlier claims that would have been compliant with the second Treasury direction in any event.

In other words look at the second Treasury Direction first:

- if your claim complies with it no need to look any further;
- if your claim doesn't comply with it and it was made before 22 May 2020 you can fall back to the first Treasury Direction.

New Treasury Direction, cont.

The rules on what a furloughed Director can do have been refined:

- previously such a Director could only (1) file company accounts or (2) provide information to an Administrator;
- now he or she can also (3) make a claim under the CJRS and (4) make a payment of salary or wages.

The requirement for an employee to agree in writing to being furloughed has now been removed, now there need only be an agreement:

- which sets out the main terms and conditions upon which the employee will cease all work in relation to their employment (reduction in pay; no work);
- which is incorporated into the employee's contract (expressly or by implication); and
- which is made in writing or confirmed in writing by the employer.

Furlough – continuing need for agreement

More details on the flexible furlough scheme will be released on 12 June:

- clarity needed re rotation as it is unclear whether rotating furloughed employees will still be permitted for existing entrants.

Placing employees on ‘flexible furlough’ will require agreement between employer and employee, confirmed in writing:

- a new agreement will almost certainly be needed as any current agreement will (or should) prohibit employees from carrying out any work for the employer during furlough;
- the new agreement should permit the employee to work during furlough and set out the circumstances in which the employer can require this.

Furlough – claim periods

Claim periods:

- the deadline for employers to claim under the CJRS for the period to 30 June 2020 is 31 July 2020;
- for the period from 1 July, claim periods will no longer be able to overlap months, i.e. you will not be able to claim for part of July and part of August in one claim – this is necessary to reflect the forthcoming changes to the scheme;
- employers may furlough different groups and numbers of employees at different times, but an employer can only make one claim during a claim period for each PAYE scheme it operates;
- minimum claim period of one week (not the same as the minimum period of furlough).

Collective redundancy consultation

- Where an employer proposes to dismiss as redundant:
 - 20 or more employees
 - at one establishment
 - within a period of 90 days or less

it must consult on its proposal with representatives of the affected employees and also notify BEIS by submitting an HR1 form.

- Consultation must be:
 - for at least 30 days if 20 or more employees will be affected in the period;
and
 - for at least 45 days if 100 or more employees will be affected in the period.
- Consultation cannot begin until representatives are in place.
- The maximum sanction for breaching collective consultation obligations is a 'protective award' of up to 90 days' gross pay for each affected employee – so can be expensive!

Collective redundancy consultation, cont.

Particular issues to be aware of in the current circumstances:

(a) If negotiating changes to terms and conditions factor this into any calculation of whether or not collective consultation might be triggered:

- one option is such negotiations is dismissal and re-engagement;
- this is a high risk option so take advice, but if it is followed any such dismissals would be for some other substantial reason and would therefore count for these purposes.

(b) when pooling and selecting for redundancy do not rely on previous furlough decisions:

- decisions may have been taken in a hurry and will probably not reflect business needs going forward;
- caring responsibilities and underlying health conditions may have played a part in furlough decision-making, could therefore lead to discrimination risk if process not re-visited at the redundancy stage.

Insight

Tom Blake, Managing Director and Executive Coach, Blake Connolly



CORONAVIRUS JOB RETENTION FLEXIBLE SCHEME

CIPD

2 JUNE 2020



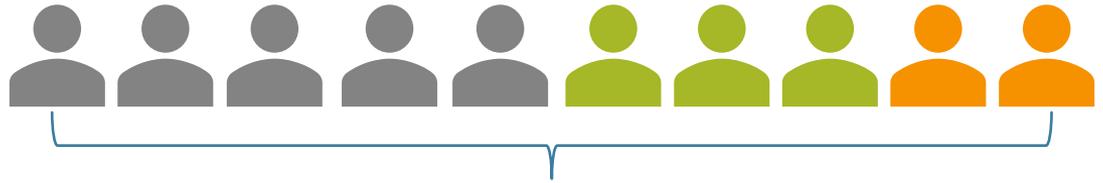
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WHERE ARE WE NOW?

- 2 June 2020

Who's in scope?



Total Workforce



Are currently furloughed



Have been furloughed and have now returned to work



Have not been Furloughed



WHO CAN BE INCLUDED?

- 1 July 2020

New Flexible Furlough – as of 1 July 2020

Can be part of Flexible Furlough



Flexible
Furlough from 1
July 2020

Cannot be part of
Flexible Furlough



WHO CAN BE INCLUDED?

- 1 July 2020

What can we do between now and 1 July?



You can still furlough, but time is running out



Last date to start furlough



Last date for a furlough claim

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WHAT CAN WE DO?

- 1 July 2020

What can employees do from 1 July 2020?

Can work “flexibly” - employer can determine how many days to work each week



Employer pays normal rate of pay on working days

Employee receives Furlough rate of pay on furlough days



WHO PAYS FOR WHAT?

- *Furlough pay*
- *Normal pay*
- *eNIC and Pension*

- *Furlough rate of pay stays at 80% capped at £2,500 – how this is made up is changing*

How are furlough rates changing?



No Changes



Employer now pays eNIC and Pension of the Furlough claim from now on.



Employers share the cost of Furlough:
70% funded 10% employer contribution:
£2,187.5 (HMRC)
£312.5 (Employer)



Employers share the cost of Furlough:
60% funded 20% employer contribution:
£1,875 (HMRC) £625 (Employer)

Employer pays eNIC and Pension

Employer pays eNIC and Pension



WHAT TO PAY EMPLOYEES



Furlough Day



Normal Working day

September 2020



	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
31	31	1	2	3	4	5	6
28							
27	7	8	9	10	11	12	13
24	14	15	16	17	18	19	20
23	21	22	23	24	25	26	27
22	28	29	30	1	2	3	4

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The people and their story



11 Days at Furlough rate of pay



11 Days at normal rate of Pay



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WHAT DO YOU NEED TO DO?

- *Next HMRC update on 12th June 2020.*

Key things to think about

If you need to furlough employees who have not yet been furloughed, you need to start their furlough period on 10th June 2020 at the latest. They then need to be on a claim on 30th June.

Can you afford the eNIC and Pension contribution of furloughed employees in August?

How will you determine who will be brought back and for how long?

What will your working patterns look like?

How will you ensure accuracy of pay calculations?



Questions

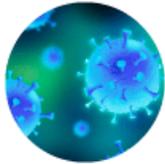
Please submit your questions for:

- Ben Willmott, Head of Public Policy, CIPD
- Andrew Willis, Head of Legal & Advisory, HR-Inform
- Tom Blake, Managing Director and Executive Coach, Blake Connolly

Please use the Q&A function to submit your questions



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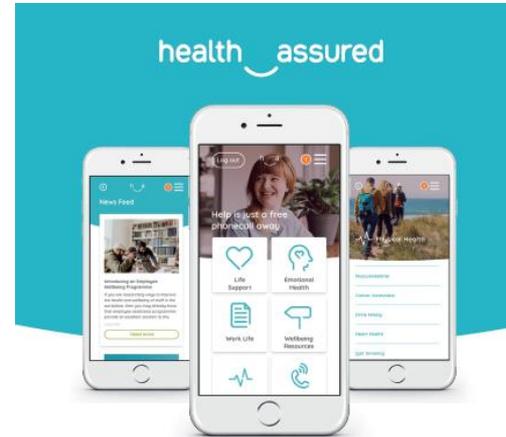
Financial
support

cipd.co.uk/memberbenefits



New Well-being Resources

- We've partnered with **Health Assured** to support members mental health and well-being
- Unlimited free 24/7 confidential telephone helpline, online portal & Health e-Hub app
- The resource provides:
 - Legal information
 - Debt and financial information
 - Manager consultancy and support
 - Information on work and home issues
 - Factsheets, advice, information and self-help tools
 - Links to specialist support organisations
 - A resources area with; programmes, videos, webinars, medical information and mini health checks.



Health e-Hub from Health Assured
Support in the palm of your hand

[Download the Health e-Hub now](#)

Further information

[NEW well-being helpline for CIPD members](#)

cipd.co.uk/coronavirus

[CIPD COVID-19 workforce planner](#)

[CIPD community](#)

[Gov.uk/coronavirus](https://gov.uk/coronavirus)

